

P-421/C-92-98 ORDER REQUIRING THE COMPANY TO RENEW ITS CENTREX
RSP CONTRACT WITH THE UNIVERSITY

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Complaint by
the University of Minnesota
Against U S West
Telecommunications, Inc.

ISSUE DATE: September 28, 1992

DOCKET NO. P-421/C-92-98

ORDER REQUIRING THE COMPANY TO
RENEW ITS CENTREX RSP CONTRACT
WITH THE UNIVERSITY

PROCEDURAL HISTORY

On January 14, 1992, the University of Minnesota (University) filed a complaint against U S West Telecommunications, Inc. (U S West or the Company). The complaint alleges that the Company did not fulfill its obligation to renew the existing Centrex Service contract as provided in its Centrex Service tariff. U S West responded to the complaint on January 31, 1992.

On February 24, 1992, the Commission issued a notice establishing comment and response periods. The Department and the University filed comments on March 13, 1992. U S West filed responsive comments on March 23, 1992.

This matter came before the Commission on August 11, 1992.

FINDINGS AND CONCLUSIONS

This dispute centers on a portion of U S West's Centrex tariff, which permits its subscribers to renegotiate their Centrex RSP contracts. Centrex is a method of providing service to businesses or other large organizations, including colleges and universities. It serves as a private telephone network for callers within the organization subscribing to the service. The service is actually provided from the telephone company's central office where a private switching network is established.

Centrex service was tariffed initially in 1966, but was rendered obsolete in 1979 by the development of a more advanced form of the same service called Centron. In 1983, U S West introduced a Rate Stability Plan (RSP) for Centrex customers. This Plan

allowed Centrex customers to enter into contracts that continued their Centrex service without any company initiated price increases during the contract period.

The University entered a 36 month contract with U S West for 765 Centrex station lines on March 3, 1989. The University sought to extend this contract by letter on October 31, 1991, requesting the Company to begin negotiating a new five year Centrex-RSP contract as soon as possible. The Company did not respond to the request, but instead filed a tariff in December, 1991, introducing a new service, Centrex Plus, to replace both Centrex and Centron. The Company followed this tariff almost immediately with a second tariff filing under which, starting January 3, 1992, U S West would no longer renew Centrex RSP contracts. The Commission found the filings incomplete, but approved the Company proposal to allow customers whose Centrex contracts have expired to continue month-to-month at existing contract rates until the Commission takes final action on the Centrex Plus filing.

The University asserts that its request to renegotiate its Centrex contract obligated U S West to extend the existing contract for an additional 36 months. The University argues that automatic renewal of its Centrex contract is required by a portion of the Company's Centrex RSP tariff, which provides in relevant part:

A customer currently under RSP may renegotiate a new contract for an identical period of time as the original contract. The renegotiation may take place at any time during the period of the original contract but must be accomplished prior to the last 30 days of the original contract. Alternatively, that customer may instead renegotiate a new contract under one of the options contained in "Contract Options" following, at any time during the period of the original contract. Should the customer fail to renegotiate a new contract prior to the last 30 days of the existing agreement, the only RSP contracts available for election are those under Contract Options. In all cases, contract rates will be those in effect at the time of negotiation/renegotiation.

General Exchange Price List, Section 4 B.11.b.(10).

The Company argues that the Centrex RSP contract between U S West and the University can be renewed only by mutual consent. The Company maintains that this is consistent with section 4 B.11.b.(10) of the Centrex RSP tariff which uses the term renegotiation, not renewal. According to the Company, the use of the term "renegotiate" implies the need for mutual agreement on the terms of any new Centrex RSP contract, prohibiting the University from unilaterally renewing its existing contract.

The Commission finds that the University's offer to renegotiate entitles the University to renewal of its Centrex RSP contract for another three years. The Commission agrees that negotiation generally involves a process of agreement between the relevant parties; however, the tariff at issue in this proceeding clearly contemplates renewal at the discretion of the customer. The tariff states in the first sentence that "a **customer** currently under RSP may renegotiate a new contract . . . (emphasis added)." General Exchange Price List, Section 4 B.11.b.(10). The tariff does not refer to the Company or suggest any requirement of mutual assent to the terms of a new RSP contract.

The tariff is highly prescriptive as to the terms of a "renegotiated" contract. It fixes rates as "those in effect at the time of negotiation/renegotiation," stating explicitly that these rates apply "in all cases." It addresses contract length, allowing renegotiation of a new contract "for an identical period of time as the original contract," while permitting the parties to negotiate a different time period. The tariff also limits a customer to the "Contract Options" under section B.11.b.(11) if the customer fails to renegotiate a new contract before the last 30 days of the existing agreement. The tariff's specificity with respect to such critical terms as contract price and length indicates that the tariff contemplates renewal of existing RSP contracts. A customer can negotiate a longer contract period under one of the options set forth in section 4 B.11.b. (11). However, failing this, the customer is entitled to renew its contract for the same period of time as the existing contract.

The Company appeared to recognize that its RSP contracts were renewable when it made its December 23, 1991, filing under Docket No. P-421/EM-91-1000. That filing sought to preclude renewal of Centrex RSP contracts by modifying U S West's tariff to state that, "the Rate Stability Plan (RSP) for Centrex Service will not be available for renewal." The University sought to renew its Centrex RSP contract before the Company proposed a change in its Centrex RSP tariff.

The tariff existing when the University requested to renegotiate applies in this dispute. Under that tariff, the customer has the option to renew its RSP contract for the same duration as the existing contract provided the customer (1) retains 90 percent of its lines, and (2) renegotiates at least 30 days before the existing contract expires. The University clearly satisfied these requirements. The University requested a new contract more than 30 days before its current contract was set to expire. The request did not seek to reduce its lines below the 90 percent threshold. The Company, therefore, must renew the University's Centrex RSP contract for three years from the date its current contract expires.

ORDER

1. U S West shall renew its Centrex RSP contract with the University of Minnesota for a period of three years following the expiration of the existing contract. The contract shall be at the same rate and under the same terms as the current contract.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)